

NEWS NOTES

of the Central Committee for Conscientious Objectors

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Philadelphia, Pa.

Hanauer ROTC Review Denied

U.S. Supreme Court Upholds Maryland University No-C.O. Exemption Policy

In a 7-2 decision the United States Supreme Court recently refused to review a Maryland Court of Appeals decision which last year upheld the right of the University of Maryland to refuse to exempt conscientious objectors from ROTC. In a per curiam decision delivered on February 24 the motion to dismiss was granted. Justice Black and Douglas dissented.

In granting the motion to dismiss the high court cited its 1934 decision in *Hamilton v. University of California*. In the *Hamilton* case the court ruled that a conscientious objector was properly excluded from the university because of his refusal to take compulsory ROTC.

The University of Maryland requires all male students who are physically fit to take two years of compulsory ROTC. The University refuses to exempt C.O.'s.

Kenneth Hanauer of Baltimore, a member of the Evangelical and Reformed Church, had been recognized as a C.O. by his draft board and had performed two years of civilian work as a C.O. He contended that the university's policy infringed his religious liberty and abridged the privilege of a C.O. provided in the draft law.

Jack A. Crabill, a member of the Church of the Brethren who had also previously performed two years of C.O. work under the draft law, also sought relief from the university requirements.

Attorneys for Hanauer and Crabill are Oliver E. Stone, Washington, D.C., and Robert B. Myers of Rockville, Md. CCCO supported the test case and raised the necessary funds.

As long as the *Hamilton* case stands no conscientious objector can attend a university which refuses to exempt C.O.'s unless he is willing to violate his conscientious scruples against war. In effect, the C.O. is denied the right to attend the school of his first choice.

CCCO Votes Continued Activity

The Executive Committee of CCCO voted unanimously at its regular meeting in New York City on March 13 to continue its activities in support of the conscientious objector.

The Committee, established in 1948, has periodically reviewed and evaluated its work, believing it is better to lay the Committee down rather than continue should the need which led to its creation no longer exist. Since its inception, CCCO has assisted thousands of C.O.'s in rela-

Roark Gets General Discharge

The Department of the Army has reversed itself and granted a general discharge under honorable conditions to Lt. Richard P. Roark.

Roark graduated from the University of California ROTC last June. He commenced six months active duty last November and was assigned to the Military Intelligence Unit at Ft. Holabird, near Baltimore, Maryland. By the time he arrived at his post he could no longer perform military duty because of his growing conscientious convictions against war. He informed his commanding officer and applied for an honorable discharge.

Pending action on his request for discharge Roark refused to perform any duty, would not wear the uniform, and refused his pay.

Second Army Headquarters denied his application for discharge and recommended that Roark's request to resign be denied. They also recommended that he stand trial by general courtmartial.

Roark was charged with refusing to obey a lawful command and with conduct unbecoming an officer. The charge sheet covered almost two pages, included seven specifications, with maximum sentence, if convicted, of 31 years.

Post authorities recommended that Roark be confined in the post stockade pending courtmartial. However, Second Army Headquarters vetoed this on the ground that confinement would serve no useful purpose. He was, however, restricted to the post.

Considerable pressure was put on Roark to resign for the good of the service. He refused, insisting on an honorable discharge. The Office of the Adjutant General in Washington finally ordered Roark's release effective February 12.

Roark has returned to his home in Berkeley, Calif. Having served less than six months in the Army he is still subject to the draft law. He is requesting a I-O classification from his draft board and is prepared to perform civilian work if his claim is granted.

tion to the draft act. Three years ago, CCCO extended its work to include tax refusals, civil defense resisters, and objectors to loyalty oaths whose stand grows out of their conscientious objection to war.

Weighing heavily in the decision to continue was the fact that CCCO is currently counseling several hundred C.O.'s who have come to CCCO for help. The continued widespread demand for the *Handbook for Conscientious*

(Continued on page 2)

Draft Extended Four Years

The peacetime draft law has been extended another four years, expiring July 1, 1963. The bill was speedily passed in both House and Senate with little debate.

The House of Representatives voted February 5 for extension, 381 to 20, after less than 10 hours of hearings and only four hours of debate. Among those voting against continuation were Edith Green and Charles Porter, both of Oregon, and freshman Congressman William Meyer of Vermont. Byron Johnson, new Congressman from Colorado and a member of the Fellowship of Reconciliation, voted present because he was paired against the bill with an absent member. He spoke against extension on the floor of the House. Leonard Wolf of Iowa led an unsuccessful fight to limit extension to two years.

The Senate voted 90 to 1 on March 11 to continue the draft, hardly waiting for the ink to dry on the report of the Senate committee hearings. The lone dissenter was Senator William Langer of North Dakota. Senator Wayne Morse of Oregon marshaled only 24 votes for a two-year extension. A proposal to establish a special Presidential committee of civilians to study alternatives to the draft was defeated.

Hanson Baldwin, wrote in the *New York Times* recently, that the lack of debate on the issue is one of the "more unusual political-psychological phenomena of our times" in view of the traditional hostility of America against conscription. Congressional apathy is matched by public indifference.

No Change in C.O. Clause

The bill to extend the draft made no changes in the C.O. provision. Paul Blanchard and Lester Forest gave testimony on behalf of the American Humanist Association urging recognition of C.O.'s who do not associate their beliefs with formal theology or supernaturalism. They asked that "sincerity" be the major test, and that the law be amended to include "personal moral and philosophical conviction."

Lewis Hoskins, representing the Friends Service Committee, urged recognition of non-religious objectors.

The American Civil Liberties Union, prevented from testifying before the Senate committee because of the swift passage of the law, appealed to the President for an amendment to include "personal conviction" as a basis for conscientious objection to war. Wrote ACLU "our democratic society can rightfully pride itself on the First Amendment guarantee of freedom of conscience, only if it asserts the special responsibility to recognize the dictates of individual conscience."

Must the citizen ever for a moment, or in the least degree, resign his conscience to the legislator? Why has every man a conscience, then? I think that we should be men, first, and subjects afterward. It is not desirable to cultivate a respect for the law, so much as for the right. The only obligation which I have a right to assume is to do at any time what I think is right. Law never made men a whit more just; and, by means of their respect for it, even the well-disposed are daily made the agents of injustice.

Henry David Thoreau

Carolina C.O. Sentenced

Federal Judge Warlick sentenced James Carriker on January 29 to two years imprisonment for refusing to accept induction into the Army.

Carriker, age 24, is a member of the Rocky River True Light Church of Christ of Monroe, North Carolina. He made a late request for a I-O classification 18 months after he registered with the local draft board. His claim was denied and he appealed. The Department of Justice recommended that he be denied a C.O. classification. The Appeal Board classified Carriker I-A. He was ordered to report for induction by his draft board, but refused to accept induction.

The court held that the evidence before the State Appeal Board would tend to support their finding that Carriker was not sincere in his claim as a C.O.

The evidence reviewed by the court claimed that Carriker "although he had shown signs of overcoming them . . . was a mischievous, reckless, bully who was known to drink intoxicants . . ." The evidence in his file also claimed that Carriker was "not regarded as an especially religious person," and that he did not join the church until after he registered for the draft when it became apparent that he would be drafted for the Army.

Evidence in his file also claimed that Carriker has a brother in noncombatant service in the Army, "although the brother is regarded by neighbors and friends as the quieter of the two boys."

In a hearing before a Department of Justice Hearing Officer the latter concluded that Carriker was insincere and that he was only repeating what he had been told to say by the people who had come to the hearing with him.

William H. Abernathy of Charlotte, N. C., attorney for Carriker, has filed notice of appeal. Carriker remains free on his original bond pending appeal to the Fourth Circuit Court.

CCCO VOTES TO CONTINUE

(Continued from page 1)

Objectors was an important factor influencing the decision to continue.

During recent years the problem of C.O.'s seeking discharge from active or reserve military duty has grown. CCCO will continue to press for an adequate solution to this difficult problem.

In making the decision to continue operations, the Executive Committee felt that a new and growing body of conscientious objection to war—as expressed by income tax refusal, opposition to civil defense, loyalty oaths, and nonviolent action against nuclear weapons—would be in need of counseling. There is also a need to interpret these C.O.'s to the general public. CCCO is prepared to assist in this problem.

The Committee will continue to cooperate with other agencies interested in the conscientious objectors. Every effort, as in the past, will be made to avoid duplication and overlapping of activity.

A. J. Muste and Lyle Tatum will continue as co-chairmen.

Briefly Noted

Johnny Freedom recently wrote from the Federal Youth Center at Englewood, Colorado that he received over 500 Christmas greetings last year from 20 countries.

* * *

Brent E. Barksdale, senior at Leland Stanford University in California, enlisted in the Marine Platoon Leaders Program while a freshman, obligating him to six years reserve duty beyond college. Barksdale recently informed the Corps of his conversion to conscientious objection and requested a discharge. He was demoted to a private and informed that he would be ordered to training camp.

If the Marine Corps puts contractual obligation above individual conscience and religious conviction it will have another difficult Peter Green case on its hands.

* * *

Philip Aker, C.O. from Tucson, Arizona, refused induction into the Army on March 10.

* * *

Crosley Brown was recently discharged from the Army at Ft. Riley, Kansas. Upon graduation from high school Brown was appointed to West Point. He served a year before resigning on grounds of conscientious objection. He was drafted last fall into the Army. His C.O. convictions were sharpened by the period of basic training. He was finally granted a medical discharge.

* * *

Mrs. Robert C. Nagler of Kalamazoo, Mich. was finally granted U.S. citizenship after the Immigration and Naturalization Service recommended that she withdraw her petition for citizenship. As a lifelong religious pacifist, she had stated that she would refuse military service but would perform work of national importance. The examiner appeared to doubt the basis for her statement however, since she was a Roman Catholic without formal church affiliation, even though she attended religious meetings of the Society of Friends, to which her husband belongs, and was a member of the Fellowship of Reconciliation. Intervention by the American Civil Liberties Union helped to secure the favorable decision.

* * *

The Committee for The Fallout Suits continues to press legal action against U.S. authorities responsible for nuclear bomb tests. The suits, brought by 39 plaintiffs, were dismissed last fall by the U.S. district court in Washington. An appeal has been taken to the U.S. Court of Appeals.

Plaintiffs in the two suits include Dr. Brock Chisholm of Canada and former Director of the World Health Organization; Bertrand Russell, famed British philosopher and mathematician; Martin Niemoeller, noted German clergyman; Dr. Linus Pauling, noted American scientist and Nobel Prize winner; Norman Thomas; Toyohiko Kagawa, eminent Japanese religious leader; and Clarence E. Pickett, executive secretary emeritus of the American Friends Service Committee.

A similar suit has been filed in Russia and other suits will soon be filed in Britain and France.

Until a suspension of nuclear bomb tests becomes a genuine actuality, The Fallout Suits will continue to press for court review of the constitutionality of nuclear bomb tests.

Admit Reynolds Trial Error

The U.S. Justice Department has admitted that certain rights were denied Earle L. Reynolds, captain of the nuclear protest yacht Phoenix, during his Honolulu trial last August.

Reynolds, his family, and a Japanese yachtsman sailed Phoenix into the forbidden Central Pacific nuclear test zone last July. He was arrested and subsequently convicted of violating an Atomic Energy Commission ruling prohibiting entry into the zone. He was sentenced to six months imprisonment. He is free on bond pending appeal before the U.S. Circuit Court in San Francisco.

Federal Judge J. Frank McLaughlin refused to postpone the trial to allow Joseph Rauh, Washington, D.C. attorney, to appear in defense of Reynolds. Judge McLaughlin refused to allow Katsugo Miho, Honolulu attorney, to withdraw from the case. He also declined to allow Reynolds to act as his own attorney.

According to Louis B. Blissard, U.S. Attorney in Honolulu, the Justice Department believes that "it was an error to refuse Reynolds to represent himself in the face of a specific and timely request." The Department is not certain, however, whether the rights involved are constitutional or statutory.

Blissard said that he had been directed to make the omission of rights part of a brief to be filed with the Circuit Court which is scheduled to hear Reynolds' appeal shortly. If the appeal court agrees that Reynolds' rights were denied, a new trial is likely.

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The suits are being financed through contributions. Additional funds are needed. Contributions can be sent to The Fallout Suits, 122 North Hudson Avenue, Pasadena, California.

THE COURT REPORTER

I PROSECUTIONS

(Sentences not previously reported)

- 3 - 1-58 William E. Callahan, 18 months, (Ft. Sam Houston, Texas) Army Court-martial, (refusal to obey lawful command)
- 12-12-58 Maurice McCrackin, 6 months and fine of \$250, (Cincinnati, Ohio) Judge Druffel, (refusal to produce records relating to his income)
- 1 - 29-59 James Carriker, 2 years, (Charlotte, N. Carolina) Judge Warlick, (free on bond pending appeal)

(All prosecutions for refusal to report for or submit to induction unless otherwise noted.)

II RELEASED FROM PRISON

(No releases reported)

III MEN CURRENTLY IMPRISONED

Allenwood, Pa.—Maurice McCrackin, Jonas W. Nolte

Danbury, Conn.—Daniel Stauffer

Englewood, Colo.—Johnny Freedom

Lompoc Disciplinary Barracks, Calif. — William Callahan

Total number of C.O.'s convicted of Selective Service violations since 1948 to date, 340. (This is a minimum number; J.W.'s and Muslims are not included, and we miss a few.)

Beginning this issue, The Court Reporter will include information on C.O.'s charged with tax refusal, or other acts in resistance to war.

CUT IT OUT!

Please cut it out — cut out all news items involving C.O.'s and mail to NEWS NOTES. Several readers are faithful with their snipping. We welcome more volunteer cutters.

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HOW MUCH IS A C.O. WORTH?

"I have as much trouble with two or three C.O. cases as I do inducting ten thousand men under the draft." General Lewis B. Hershey.

McCrackin Refuses to Pay Fine

The Reverend Maurice McCrackin, currently serving a six months prison sentence at the Federal Prison Camp near Allenwood, Pa., recently stated that he would not pay the fine of \$250 levied upon him by Judge Druffel. McCrackin was sentenced last December for refusal to produce records showing his income for 1955 and 1956. He has steadily refused to pay income taxes to the federal government because of his conscientious objection to war.

He stated that he does not feel that he can conscientiously pay the fine. He does not want his friends to pay it for him. "The paying of the fine," said McCrackin, "would not be for my welfare but to the detriment of what I believe in and am trying to practice. For a year and a half I have been under severe attack which finally resulted in my imprisonment. I have gone through a good deal and am ready for conscience's sake to endure more. I earnestly hope that I will be allowed to take the course of what I believe to be right without interference."

Under federal law it is possible for the government to retain custody of McCrackin indefinitely until the fine is paid. Prison authorities have told McCrackin that he could be held indefinitely. Barring this possibility, McCrackin should be released from Allenwood about April 29.

George Willoughby visited Reverend McCrackin recently and found him in good spirits. While McCrackin would not cooperate with authorities in effecting his imprisonment he feels that he can perform work while incarcerated. He has been assigned to a kitchen job.

